

Application No.: 10/659,237
Amendment Dated: June 8, 2007
Reply to Office Action of: March 8, 2007

MTS-3302US1

Remarks/Arguments:

Claims 6-14, 28, 52 and 54-71 are pending in the above-identified application. By the present amendment, claims 6-14, 28 and 52 are amended; claims 54-71 are newly added; and claims 15-23, 29, 30 and 53 are cancelled. Claims 1-5, 24-27 and 31-51 have been previously cancelled.

Supplemental Preliminary Amendment Filed September 10, 2003

The Office Action Summary provided in the Office Action mailed on March 8, 2007, incorrectly indicates that claims 1-51 are pending in the application. In a Supplemental Preliminary Amendment filed on September 10, 2003, claims 1-5, 24-27 and 31-51 were cancelled and new claims 52 and 53 were added. Accordingly, Applicant respectfully notes that the Office Action did not examine the most recent claim set. Accordingly, the rejections of claims 31-32, 34-40, 42-48 and 50-51 under 35 USC § 112 (see Office Action, page 2, bottom) and claims 1-5, 24-27, and 31-51 under 35 USC § 102(b) (see Office Action, pages 4 13) are moot as these claims were previously cancelled in the Supplemental Preliminary Amendment. Applicants request that these rejections be withdrawn. Favorable consideration is respectfully requested.

Objection To The Specification

The abstract stands objected to as indicated on page 2 of the Office Action. In particular, the Office Action emphasizes that the "form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided." By the present Amendment, Applicant submits an amended abstract. Favorable reconsideration is respectfully requested.

Objection To Claim 29

The Office Action objects to claim 29. By the present Amendment, claim 29 is cancelled. Accordingly, Applicant respectfully contends that the objection is moot and requests that it be withdrawn.

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Rejections Of Certain Claims Under 35 USC §112

Claims 31-32, 34-40, 42-48, and 50-51 stand rejected under 35 USC § 112, second paragraph. As discussed above, Applicant respectfully notes that claims 31-51 were cancelled in the Supplemental Preliminary Amendment filed with the USPTO on September 10, 2003. Accordingly, Applicant respectfully contends that these rejections are moot and requests that they be withdrawn.

Rejections To The Claims Under 35 USC § 101

Claims 29 and 30 stand rejected under 35 USC § 101. By the present Amendment, claims 29 and 30 are cancelled. Accordingly, Applicant respectfully contends that these rejections are moot and requests that they be withdrawn.

Rejections Under 35 USC § 102(b)

Pending claims 6-14 and 28 stand rejected under 35 USC § 102(b) for allegedly being anticipated by US Patent No. 6,030,342 to Amano et al. ("Amano"). Although not conceding the rejections, Applicant has amended claims 6 to expedite prosecution. It is respectfully submitted that amended claim 6 is patentable over Amano for at least the reasons set forth below.

Amended claim 6 includes features which are neither disclosed nor suggested by Amano, namely:

wherein said buffering means and said storing means comprise a removable medium which can be detached, and said removable medium is transferable between said vital signs detecting means and said vital signs processing means to transfer data stored in said removable medium.

This feature is found in the originally filed application at page 48, line 18, through page 50, line 1. No new matter has been added.

The above-quoted portion of claim 6 is similar to the portion recited in claim 8 pending during the previous Office Action. The previous Office Action rejected claim 8 for

being disclosed by Amano in Figs. 25-27 and in the discussion at Col. 12, lines 7-65.
Applicant respectfully traverses this assertion.

Fig. 1 of Amano details a functional structure of a calorie expenditure measuring device. (See Amano, Col. 6, lines 53-56.) The portion of Amano (Col. 12, lines 7-65) cited by the Office Action as allegedly disclosing the above-quoted features discloses the "electrical structure for realizing the functional structure shown in Fig. 1." (See Amano, Col. 12, lines 18-19.) In particular, this portion of Amano describes this "electric structure" as comprising a CPU 201, a RAM 203, a switch interface 204, a display 205, a watch circuit 208, and a body motion sensor interface 209. Amano does not disclose that any of these components are removable from the functional structure illustrated in Fig. 1.

Figs. 25-27 illustrate various views of the calorie expenditure measuring device. Fig. 25 illustrates that this device may employ one pressure sensor and one pulse sensor. (See Col. 29, lines 22-24.) Fig. 26 illustrates placing the device on a person's arm so that the sensors are positioned near the radial artery of the person. (See Col. 29, lines 29-37.) Fig. 27 illustrates using a pulse waveform detector instead of a pressure sensor in the calorie expenditure measuring device. (See Col. 29, lines 50-63.) None of these above-quoted portions of Amano disclose a "buffering means and [a] storing means [that] comprise a removable medium which can be detached" or that "said removable medium is transferable between said vital signs detecting means and said vital signs processing means," as recited in amended claim 6. In fact, these figures illustrate that the calorie expenditure measuring device may be embodied as a watch-like device that appears to have no removable parts. Accordingly, Applicant respectfully contends that the above-quoted features are not disclosed by Amano as argued on page 6 of the Office Action.

In view of the foregoing, Applicant respectfully contends that claim 6 is patentable over Amano for at least the reasons discussed above and request that the rejection of the claim be withdrawn.

New Claim 54

By the present amendment, new claim 54 is submitted for consideration. New claim 54 recites features similar to those recited in the version of claim 7 presented in the

Supplemental Preliminary Amendment. In particular, new claim 54 recites features relating to a "third communication means configured for communicating with an external server" and limitations on the recited "external server." With regard to limitations on the recited "external server," claim 54 recites:

wherein . . . the external server includes:

. . .

means configured for changing the predetermined program and/or data and transferring the changed program and/or data to the vital signs processing means via the third communicating means, when the detected vital signs are determined to be outside of the predetermined range for the user.

In the rejection of claim 7, the Office Action, at page 6, lines 1-3, contends that Amano, at Col. 21, lines 57-68, and Col. 22, lines 1-26, discloses features relating to a "third communicating means" that is used to communicate with an external server. (See Office Action, page 6, lines 1-3.) Applicants respectfully contend that the portions of Amano do not disclose all of the limitations of new claim 54 quoted above. Favorable consideration of claim 54 is therefore respectfully requested.

The portion of Amano cited in the Office Action at page 6, lines 1-3, describes an operation in which a calorie expenditure measuring device communicates with the external device illustrated in Fig. 9. (See Amano, Col. 21, lines 52-56.) Upon the activation of switch Sw2 in the calorie expenditure measuring device, the calorie expenditure measuring device transmits calorie expenditure data for a plurality of time intervals, the summed value of calorie expenditure during a time interval, or a rate of change in the calorie expenditure for a time series. (See Amano, Col. 22, lines 3-12.) These data are transmitted to external device 600. (See Amano, Col. 22, lines 3-6.)

Continuing, Amano describes that device 600 communicates target values for calorie expenditures to the calorie expenditure measuring device. (See Amano, Col. 22, lines 35-55.) This portion of Amano does not disclose "changing [a] predetermined program and/or data and transferring the changed program and/or data . . . when. . . detected vital signs are determined to be outside of [a] predetermined range for the user."

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In view of the foregoing, Applicant respectfully contends that Amano, at Col. 21, lines 57-68, and Col. 22, lines 1-26, does not disclose the above-quoted portion of new claim 54. Favorable consideration is respectfully requested.

New Claim 55

By the present Amendment, Applicant submits a new claim 55. New claim 55 recites an "external server" that is configured to "generate a health control program comprising exercise indices, an exercise menu, and health control indices, the exercise indices directing an exercise routine of the user" and to "transmit the health control program to the vital signs processing means." These features are similar to those recited in claim 17, which is rejected on page 9 of the Office Action.

In the rejection of claim 17, the Office Action cites to Col. 1, line 20-62, and cols. 7 and 8 of Amano for allegedly disclosing these features. Applicant respectfully notes that Col. 1 of Amano discloses prior-art devices and methods for measuring calorie expenditure (See Amano, Col. 1, lines 20-62.) Additionally, Cols. 7 and 8 of Amano discuss various components of a calorie expenditure measuring device. Accordingly, Applicant respectfully contends that the portions of Amano cited in the Office Action with reference to claim 17 do not disclose the above-quoted portions of new claim 55.

New Claims 60-71

New claim 60 includes features that are similar to claim 55. Accordingly, for at least the same reasons as discussed above for claim 55, Applicant respectfully contends that claim 60, and claims 61-71 which depend therefrom, are patentable over Amano.

Rejections of claims 1-5, 24-27 and 31-51

Page 4 of the Office Action rejects claims 5 and 27 under 35 USC § 102(b) for allegedly being anticipated by Amano. Page 13 of the Office Action rejects claims 1-4, 24-26 and 31-51 for allegedly being anticipated by U.S. Patent No. 6,221,012 to Maschke et al. Applicant notes that all of these claims were cancelled in the Supplemental Preliminary

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Amendment discussed above. Accordingly, Applicant respectfully requests that these rejections be withdrawn.

Remaining Claims

Claims 7-14, 28, 52 and 56-59 depend from one or more of claims 6, 54 and 55 and therefore include all of the limitations of one or more of claims 6, 54 and 55. Accordingly, for at least the same reasons as discussed above for claims 6, 54 and 55, Applicant respectfully contends that these claims are patentable over Amano and requests the applicable rejections be withdrawn.

Conclusion

In view of the foregoing remarks and amendments, Applicant respectfully contends that claims 6-14, 28-52 and 54-71 are in condition for allowance and respectfully request that the rejections of these claims be withdrawn.

Respectfully submitted,

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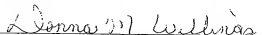
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Dated: June 8, 2007

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